

### REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

After entry of the foregoing amendment, Claims 1, 4 and 5 are pending in the present application. Claims 2 and 3 have been canceled without prejudice or disclaimer. Claims 1, 4 and 5 have been amended to address cosmetic matters of form and to incorporate canceled subject matter. No new matter is added.

By way of summary, the Official Action presents the following issues: the Abstract of the Disclosure has been objected to as to matters of form; the Title of the Invention has been objected to as to matters of form; and Claims 1-5 stand rejected under 35 U.S.C. § 103 as being unpatentable over Katsuichi et al. (JP 05-120,781, hereinafter "Katsuichi") in view of Hertrich (U.S. Patent Publication No. 2005/0028180).

### OBJECTIONS TO THE ABSTRACT

With regard to the objections to the Abstract, Applicants have amended the Abstract so that is now is within the one-hundred and fifty word limit. Accordingly Applicants respectfully request that the objection to the Abstract be withdrawn.

### OBJECTION TO THE TITLE

With regard to the objection to the Title, Applicants submit herewith a new Title. Accordingly, Applicants respectfully request that the objection to the Title be withdrawn.

### REJECTIONS UNDER 35 U.S.C. § 103

The Official Action has rejected Claims 1-5 under 35 U.S.C. § 103 as being unpatentable over Katsuichi in view of Hertrich. The Official Action contends that Katsuichi describes all of the Applicants' claim features with the exception of a switch trigger.

However, the Official Action cites Hertrich as describing this more detailed aspect of the Applicants' claimed advancements, and, states that it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to combine the cited references for arriving at the Applicants' claims. Applicants respectfully traverse the rejection.

By way of background, high density disks are increasingly utilized for storing larger amounts of data. In order to access such disks, objective lens configurations must be provided to account for the high density disks by way of a greater numerical aperture. As the greater numerical aperture has a reduced focal length, the distance between the objective lens and the disk surface (i.e., working distance) is reduced. In such arrangements, contact of the disks with the objective lens becomes commonplace, damaging the disks and/or objective lens.<sup>1</sup>

In light of at least the above deficiencies in the art, the present advancements are provided. With at least the above objects in mind, a brief comparison of the claimed advancements, in view of the cited references, is believed to be in order.

Amended Claim 1 recites, *inter alia*, a disk recording and reproducing device, including:

...said detecting unit is configured to detect a disk standby position which is between said disk writing/reading position and said disk ejecting position, and, in a standby mode, the disk is moved and placed at said disk standby position based on the detection, said disk is stopped in said disk standby position on upward movement thereof by the disk recording and reproducing device while said disk is conveyed from said disk writing/reading position toward said disk ejecting position

wherein, in said disk standby position a surface of the disk is spaced from an objective lens by a distance to prevent said objective lens from contacting the surface of said disk even when said objective lens is moved in a movable range thereof.

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<sup>1</sup> See application at pages 1-3.

Katsuichi describes a disk unit including a clamper (16) for introducing or rejecting a magneto-optical disk (1) to the disk unit.<sup>2</sup> In operation, a switch (21) is provided for detecting a second loading force for initiating a re-loading operation.<sup>3</sup>

Hertrich describes a disk unit which includes a slide member (104) which interrupts an IR beam provided between an IR source and a phototransistor for indicating a position of the slide member.

Conversely, in an exemplary embodiment of the Applicants' claimed advancements, a disk recording and reproducing device is provided which includes a slide member slidably driven by a drive unit through a rack to convey a disk in a horizontal direction from a disk ejecting position. The slide member lowers the disk vertically and positions the disk in a disk writing/reading position in which information can be written on and read from the disk by an optical pickup. The slide member has a switch trigger, and the disk recording and reproducing device has a detecting unit on a chassis thereof for being electrically detected by the switch trigger. The detecting unit is configured to detect a disk standby position which is between the disk writing/reading position and the disk ejecting position. In the standby mode, the disk is moved and placed at the disk standby position based on the detection, the disk is stopped in the standby position on upward movement thereof by the disk recording/reproducing device while the disk is conveyed from the disk writing/reading position toward the disk ejecting position. In the disk standby position, a surface of the disk is spaced from an objective lens by a distance to prevent the objective lens from contacting the surface of the disk even when the objective lens is moved in a movable range thereof.

Katsuichi does not disclose or suggest a recording/reproducing device which conveys a disk to a standby position which is between a disk writing/reading position and a disk

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<sup>2</sup> See Katsuichi at Figs. 3 and 4.

<sup>3</sup> See Katsuichi at paragraph 37.

ejecting position or, that the disk is stopped in the disk standby position on upward movement thereof by the disk recording and reproducing device while the disk is conveyed from the disk writing/reading position toward the disk ejecting position as currently recited in Applicants' amended Claim 1, or any claim depending therefrom.

Applicants acknowledge the statement in the Official Action at page 4 with respect to the features of Claim 3. In this regard, Applicants note that other solutions to the problem of high definition disks contacting objective lens configurations require complex modifications to the optical pickup.<sup>4</sup> As the present claimed advancements utilize an intermediate standby position of an appropriate spacing between the objective lens and an eject position, the standby feature of the Applicants' claimed advancements is a novel solution. Moreover, as noted in the Official Action, since this feature is not disclosed or suggested by the cited references, Applicants respectfully submit that the incorporation of this feature into independent Claim 1 distinguishes the current claims over the art of record, including Claims 4-5 by virtue of their dependencies.

Accordingly, Applicants respectfully request that the rejection of Claims 1-5 under 35 U.S.C. § 103 be withdrawn.

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<sup>4</sup> See application at page 16.

CONCLUSION

Consequently, in view of the foregoing amendments and remarks, it is respectfully submitted that the present application, including Claims 1, 4 and 5, is patentably distinguished over the prior art, in condition for allowance, and such action is respectfully requested at an early date.

Respectfully submitted,

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